

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 05-00117-01 HG
)	
Plaintiff,)	MEMORANDUM
)	
vs.)	
)	
KENNETH CHIO HENG IONG,)	
)	
Defendant.)	
_____)	

MEMORANDUM

I. STATEMENT OF FACTS

The hallmark of this case since its indictment on March 23, 2005 has been delay by Defendant, KENNETH CHIO HENG IONG. Originally, the Defendant contended he needed time in order to obtain retained counsel. Nearly a month passed before the Defendant announced that he wished to represent himself and was abandoning his efforts to obtain counsel at a hearing on May 2, 2005. Shortly after the "Faretta hearing," the Defendant moved to continue his trial from August 30, 2005, until January 10, 2006. In January, 2006, on the eve of trial, the Defendant sought the appointment of counsel and filed the necessary *in forma pauperis* application.¹ Because of the recent appointment

¹ It is interesting to note that a defendant who filed a *forma pauperis* affidavit now claims to have access to money to totally resolve his tax obligations. This change in position raises questions concerning the veracity of the declaration the defendant signed under penalty of perjury when he first requested the appointment of counsel.

of counsel, the trial was once more continued until August 15, 2006. Not surprisingly on August 14, 2006, a conflict of interest predicated upon reasons the author of these pleadings is not privy to, materialized. Appointed counsel was relieved, a new counsel was appointed, and yet another new trial date was set. Finally, on February 23, 2007, after two or three weeks of negotiations with the Defendant's present lawyers and Stuart Fujioka, Esq., a decision was reached to enter a guilty plea in this case.

On the day of the entry of the guilty plea, February 23, 2006, IRS Special Agent Florence Poon, who had investigated this case at all stages, the undersigned, and Brian Hershman, Esq. and his forensic accountant, met after the change of plea hearing, and reviewed the documentation in this case. The government offered full and complete cooperation to the forensic accountant in providing information and exploring the government's computation of the tax loss. At no time since that meeting has the undersigned or Ms. Poon been contacted by the defense or asked to provide any further documentation or any assistance of any kind.

It should be noted that from the first contact with Hershman and his associates, the government has taken the position that this case must be resolved at the earliest possible date. The Defendant's lawyers were told during our initial

discussions that any effort to continue sentencing would be opposed by the United States.

In view of the Defendant's plea and the matters admitted, this case does not present any novel or difficult questions in regard to sentencing. The issues are simple. The Defendant obtained money, allegedly to secure equipment for the operation of his business. He immediately diverted company monies to his own personal use, to defray his own expenses. In addition, the Defendant used company money to pay for mortgages in his name as well as his own personal expenses. The Defendant also failed to report rental income. The documentation supporting the government's position is incontrovertible and has been made available to the defense. A simple computation of the tax loss is all that remains to be done.

II. CONCLUSION

The defense has failed to provide any reasonable basis for its request for a continuance. The United States asks that this rather venerable case be allowed to proceed in due course to

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its final conclusion. There is no reason the Defendant cannot be ready to proceed on June 7, 2007.

DATED: March 16, 2007, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By /s/ Leslie E. Osborne, Jr.
LESLIE E. OSBORNE, JR.
Assistant U.S. Attorney